

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: 05/09/2012
POSITION: Neutral

BILL NUMBER: AB 2530
AUTHOR: Atkins, Toni
RELATED BILLS: AB 568 (Skinner)

BILL SUMMARY: Inmates in labor.

This bill would prohibit an inmate or ward known to be pregnant or in recovery after delivery from being restrained by the use of leg irons, waist chains, or handcuffs behind the body. This bill also would prohibit a pregnant inmate or ward in labor, during delivery, or in recovery after delivery from being restrained by the wrists, ankles, or both, unless deemed necessary for the safety and security of the inmate, the staff, or the public. This bill would further specify that the standards developed by the Board of State and Community Corrections (BSCC) require pregnant inmates be advised orally or in writing of standards and policies governing pregnant inmates and require the BSCC to develop standards regarding the restraint of pregnant inmates at its next biennial review.

FISCAL SUMMARY

The California Department of Corrections and Rehabilitation (CDCR) anticipates this bill would not result in additional workload as it codifies existing practice.

The BSCC anticipates the cost to develop regulations regarding the restraint of pregnant women to be minor and absorbable.

The California Constitution requires the state to reimburse local entities for increased costs associated with any new program or higher level of service imposed by the state on local entities if the Commission on State Mandates determines that the new program or higher level of service is reimbursable and a state mandate. Although implementation of this bill could require local agencies to handle pregnant inmates in a different manner, it is unlikely that this bill would create a reimbursable state-mandated local program because it is intended to clarify best practices for restraining pregnant inmates or wards, rather than imposing new requirements on local correctional facilities.

COMMENTS

The Department of Finance is neutral on this bill because it could reduce health risks for pregnant inmates and wards housed in CDCR and local facilities and reduce the state's exposure to litigation arising from improper shackling. Additionally, because the bill is intended to address best practices for local governments, it is unlikely that this bill would result in a state-mandated local program.

According to the author's office this bill is necessary because existing law does not protect female inmates in various stages of pregnancy from being restrained by the use of leg irons, waist chains, or handcuffs behind the body, which leaves these inmates vulnerable to potentially injurious falls throughout their pregnancy.

The BSCC notes this bill contains amendments that do not conform to recently enacted trailer bill language (Chapter 41, Statutes of 2012) which removed the requirement that the BSCC establish state standards.

Analyst/Principal (0233) J.Howard	Date	Program Budget Manager Lisa Ann Mangat	Date
Department Deputy Director		Date	
Governor's Office:	By:	Date:	Position Approved _____ Position Disapproved _____
BILL ANALYSIS			Form DF-43 (Rev 03/95 Buff)

BILL ANALYSIS--(CONTINUED)**Form DF-43****AUTHOR****AMENDMENT DATE****BILL NUMBER**

Atkins, Toni

05/09/2012

AB 2530

COMMENTS (continued)

This bill would require the BSCC to establish minimum standards for state correctional facilities by January 1, 2007.

A similar bill, AB 568 (Skinner) of the current Legislative Session, was vetoed by Governor Brown because the criteria for restraining pregnant inmates set forth in the bill was overly restrictive and ill-defined. We note that this bill also contains language that could be construed as restrictive and ill-defined. AB 1900 (Skinner) of the 2009-10 Legislative Session would have prohibited the shackling of pregnant inmates and wards during transport to and from correctional facilities, but was vetoed by Governor Schwarzenegger because the bill would have required the Corrections Standards Authority (now the BSCC) to develop guidelines which were outside of its mission. Chapter 608, Statutes of 2005 banned the shackling of women during labor, delivery, and recovery.

Existing law:

- Prohibits the shackling of pregnant inmates and wards by the wrists or ankles during labor, including during transport to a hospital, during delivery, and while recovering after giving birth.
- Requires pregnant inmates and wards that are taken to a hospital outside the correctional facility be transported in the least restrictive way possible.
- Entitles any female ward the right to summon and receive the services of any physician and surgeon of her choice to determine if she is pregnant, and a determination of the extent of the medical services needed with regard to the pregnancy.
- Requires the BSCC to establish minimum standards for local detention facilities.

	SO	(Fiscal Impact by Fiscal Year)							
Code/Department	LA	(Dollars in Thousands)							
Agency or Revenue	CO	PROP					Fund		
Type	RV	98	FC	2012-2013	FC	2013-2014	FC	2014-2015	Code
5225/Corr & Rehab	SO	No		----	No/Minor Fiscal Impact	----			0001
5227/BdStCommCorr	SO	No		----	No/Minor Fiscal Impact	----			0001
8885/Comm St Mndt	LA	No		----	No/Minor Fiscal Impact	----			0001